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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

Debtor.

Case No. BK-S-06-10725-LBR

Chapter 11

**DECLARATION OF GEOFFREY L.  
BERMAN IN SUPPORT OF  
OMNIBUS OBJECTION OF USACM  
TRUST TO PROOFS OF CLAIM  
BASED UPON INVESTMENT IN  
THE FIESTA/USA STONERIDGE  
LOAN**

**Date of Hearing: August 30, 2011  
Time of Hearing: 10:30 a.m.  
Estimated Time for hearing: 10 min.**

Geoffrey L. Berman declares under penalty of perjury:

1. I am an adult person competent to testify in court.
2. I make this declaration based upon my personal knowledge, and upon the records USA Commercial Mortgage Company.
3. I am the Trustee of the USACM Liquidating Trust ("USACM Trust"), which is an entity created by the Debtors' Third Amended Joint Chapter 11 Plan of Reorganization ("Plan"), in the jointly-administered bankruptcy cases, In re USA Commercial Mortgage Company, BK-S-06-10725-LBR, pending in the United States Bankruptcy Court for the District of Nevada.
4. USACM circulated an Offer Sheet to prospective Direct Lenders soliciting funding for an acquisition loan to a borrower identified as "a joint venture between Fiesta

Development, and USA Investment Partners -- an affiliate of USA Capital.” A copy of the Offer Sheet is attached hereto as **Exhibit B** and incorporated by this reference. The total loan amount proposed was \$10,000,000.00. *Id.* The loan proceeds were to be used by Borrower to complete the acquisition of the real property. *Id.* The Offer Sheet described the investment as a “First Trust Deed Investment” and noted that the investment would be secured by a first deed of trust on approximately 640 acres located in Riverside County - just east of Perris, California. *Id.* The Offer Sheet indicated that the loan to value ratio would be approximately 58% of the current value of the property.<sup>1</sup> *Id.*

5. On September 22, 2003, Borrower made and delivered to various lenders, including the Direct Lenders identified in **Exhibit A**, a “Promissory Note Secured by Deed of Trust” (the “Note”) and a Loan Agreement. The Note and Loan Agreement provided for a loan in the initial principal amount of \$10,000,000.00. *Id.* The Note was secured by a “Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing” (“Deed of Trust”) that was recorded in the official records of Riverside County, California on June 22, 2004. The Offer Sheet indicated that Joe Milanowski and Tom Hantges would personally guarantee repayment of the loan. The Trustee cannot locate a signed personal guarantee from either person, however.

6. The USACM “Loan Summary” dated July 31, 2006 and filed in this case shows that Borrower was “Non-performing” on the Note as of July 31, 2006. The USACM “Loan Summary” dated February 28, 2007 and filed in this case shows that Borrower was “Interest Default”.

7. On March 22, 2005, the Borrower made and delivered a Loan Extension Agreement signed to USACM. Tom Hantges and Joe Milanowski signed the Loan Extension Agreement as guarantors.

<sup>1</sup> The Trustee has been unable to locate an appraisal from 2003 that would support this valuation.

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